

AN ACT to amend Chapter 198 of the Acts of 1901, as amended by Chapter 225 of the Acts of 1903, Chapter 24 of the Private Acts of 1913, Extraordinary Session, Chapter 67 of the Private Acts of 1969, and Chapters 13 and 14 of the Private Acts of 1989, and all other acts amendatory thereto, the same being the charter of the City of Henderson, Tennessee, relative to the levy of a privilege tax on the occupancy of any rooms, lodgings or accommodations furnished to transients by any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings, or accommodations are furnished to transients for a consideration within the City of Henderson.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Section 8 of Chapter 198 of the Acts of 1901, as amended by Chapter 225 of the Acts of 1903, Chapter 24 of the Private Acts of 1913, Extraordinary Session, Chapter 67 of the Private Acts of 1969, and Chapters 13 and 14 of the Private Acts of 1989, and all other acts amendatory thereto is further amended by adding Sections 2 through 13 of this act as a new, appropriately designated subsection.

SECTION 2. As used in this act unless the context otherwise requires:

(1) "City" means the City of Henderson, Tennessee.

(2) "City Recorder" means the City Recorder of the City of Henderson, Tennessee.

(3) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(4) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(5) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(6) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(7) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(8) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days.

SECTION 3. The legislative body of the City of Henderson is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of five

percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this act.

SECTION 4. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the City of Henderson, Tennessee.

When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected or charged and the operator shall receive credit for the amount of such tax if previously paid or reported to the city.

#### SECTION 5.

(a) The tax levied shall be remitted by all operators who lease, rent or charge for any rooms, lodgings, spaces or accommodations in hotels within the city to the City Recorder or his designee who may be charged with the duty of collection thereof, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city entitled to such tax shall be that of the operator.

(b) For the purpose of compensating the operator for remitting the tax levied by this act, the operator shall be allowed two percent (2%) of the amount of the tax due and remitted to the city in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

SECTION 6. The City Recorder shall be responsible for the collection of such tax and shall place the proceeds of such tax in accounts as provided in this act. A monthly tax return

shall be filed under oath with the City Recorder by the operator with such number of copies thereof as the City Recorder may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed and furnished by the City Recorder. The City Recorder shall audit each operator in the city at least once a year and shall report on the audits to the Board of Mayor and Aldermen.

The Board of Mayor and Alderman is authorized to adopt ordinances to provide reasonable rules and regulations for the implementation of the provisions of this act.

SECTION 7. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

SECTION 8. Taxes collected by an operator which are not remitted to the City Recorder on or before the due dates are delinquent. An operator is liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). In addition, it is a violation of this act for any operator to knowingly file a false tax return and such violation shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00).

SECTION 9. It is the duty of every operator liable for the collection and payment to the city of any tax imposed by this act to keep and preserve for a period of three (3) years all records necessary to determine the amount of tax due and payable such person may have been liable for the collection of and payment to the city, which records the City Recorder, his designee or any accounting firm or accountant employed by the city, has the right to inspect at

all reasonable times.

SECTION 10. The City Recorder in administering and enforcing the provisions of this act has as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67 of Tennessee Code Annotated or otherwise provided by law for City Recorders.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67. It is the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this act. Provided, further, the City Recorder shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, for county clerks applicable to adjustments and refunds of such tax.

With respect to the adjustment and settlement with taxpayers, all errors of city taxes collected by the City Recorder under authority of this act shall be refunded by the city.

Notice of any tax paid under protest shall be given to the Mayor and City Recorder and suit may be brought for recovery against the Mayor and City Recorder.

SECTION 11. The proceeds of the tax authorized by this act shall be allocated to and placed in the General Fund of Henderson, or such other fund as the Board of Mayor and Aldermen shall direct.

SECTION 12. The tax levied pursuant to the provisions of this act shall only apply in accordance with the provisions of Tennessee Code Annotated, Section 67-4-1425.

SECTION 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Board of Mayor and Aldermen of the City of Henderson, Tennessee. Its approval or

nonapproval shall be proclaimed by the Mayor and certified by the Mayor of the city to the secretary of state.

SECTION 15. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect upon being approved as provided in Section 14.